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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,992	07/10/2002	Jonathan Sharp	042933/302069	3264
826 7590 12/13/2007 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER PHUONG, DAI	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 12/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/089,992	Applicant(s) SHARP, JONATHAN	
	Examiner Dai A. Phuong	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/2007 has been entered.

Response to Amendment

2. Applicant's arguments filed 10/31/2007 have been fully considered but they are not persuasive. Claims 14-21 have been added in response filed on 10-31/2007. Claims 1-12 and 14-21 are currently pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 9-12 and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumagai et al. (U.S. 6731959) in view of Inoue et al. (U.S. 6332024).

Regarding claim 1, Kumagai et al. disclose a portable radio communications device, comprising:

a body (fig. 5, col. 3, line 61 to col. 4, line 59);

a cover having a closed position for at least partially covering the body and an open position (fig. 5, col. 3, line 61 to col. 4, line 59);

a display (fig. 5, col. 3, line 61 to col. 4, line 59);

keys accessible 30, 31, 32a and 32b when the cover in closed position, one of the said keys being in a position remote from all other keys 32a and/or 32b (fig. 5, col. 3, line 61 to col. 4, line 59);

wherein the function of the key is dependent upon the state of the device, and for at least one state of the device, operation of the key controls the provision of information on the display (fig. 5, col. 3, line 61 to col. 4, line 59);

wherein the key is arranged to be active when the cover is in the closed position and inactive when the cover is in the open position, and wherein the key is located on the cover (fig. 5, col. 3, line 61 to col. 4, line 59).

However, Kumagai et al. do not disclose one of keys being multifunctional.

In the same field of endeavor, Inoue et al. disclose one of keys being multifunctional 3 (fig. 1, col. 5, lines 1-42 and col. 8, lines 33-40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the portable terminal of Kumagai et al. by specifically including one of keys being multifunctional, as taught by Inoue et al., the motivation being in order to provide user-friendly, save space and minimum entry keys and significantly improve the usability.

Regarding claim 2, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device wherein the display comprises a portion which is visible when the cover is in the closed position, and the key is operable to controls the provision of information on the portion of the display visible when the cover is in the closed position (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 3, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device which comprises a receiver (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 4, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device wherein, when the device is in a state corresponding to the receipt of a message, the key is operable to controls the provision of information corresponding to the message (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 5, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device wherein, when the device is in a state corresponding to the receipt of a missed call, the key is operable to controls the provision of information corresponding to the missed call (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 6, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device which comprises a transmitter (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 7, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device wherein, when the device is in

an idle state, the key is operable to controls the provision of information corresponding to the last number dialed (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 9, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device wherein operation of the key is a single actuation (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 10, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device further comprising a hinge switch for detecting when the cover makes a specific acute angle with the body (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 11, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 10. Further, Kumagai et al. disclose a device further comprising a processor for detecting, via the hinge switch, when the cover is in the open position and when the cover is in the closed position (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 12, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 11. Further, Kumagai et al. disclose a device wherein the processor is arranged to disable the multifunctional key when the cover is in the open position (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 13, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device wherein the multifunctional key is located on the cover (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 14, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose wherein the key is the only key disposed on a first surface of the cover (fig. 5, col. 3, lines 61 to col. 4, line 59). Furthermore, Inoue et al. disclose wherein the multifunctional key (fig. 1, col. 5, lines 1-42 and col. 8, lines 33-40).

Regarding claim 15, Kumagai et al. disclose a portable radio communications device comprising:

a body (fig. 5, col. 3, line 61 to col. 4, line 59);

a cover having a closed position for at least partially covering the body and an open position (fig. 5, col. 3, line 61 to col. 4, line 59);

a display (fig. 5, col. 3, line 61 to col. 4, line 59); and

keys accessible when the cover is in the closed position, one of said keys being the only key disposed on a first surface of the cover (fig. 5, col. 3, lines 61 to col. 4, line 59),

wherein: the function of the key is dependent upon the state of the device, and for at least one state of the device, operation of key controls the provision of information on the display, wherein the key is arranged to be active when the cover is in the closed position and inactive when the cover is in the open position (fig. 5, col. 3, lines 61 to col. 4, line 59).

However, Kumagai et al. do not disclose one of keys being multifunctional.

In the same field of endeavor, Inoue et al. disclose one of keys being multifunctional 3 (fig. 1, col. 5, lines 1-42 and col. 8, lines 33-40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the portable terminal of Kumagai et al. by specifically including one of keys being multifunctional, as taught by Inoue et al., the motivation being in order to provide user-friendly, save space and minimum entry keys and significantly improve the usability.

Regarding claim 16, this claim is rejected for the same reason as set forth in claim 2.

Regarding claim 17, this claim is rejected for the same reason as set forth in claim 4.

Regarding claim 18, this claim is rejected for the same reason as set forth in claim 5.

Regarding claim 19, this claim is rejected for the same reason as set forth in claim 7.

Regarding claim 20, this claim is rejected for the same reason as set forth in claim 8.

Regarding claim 21, this claim is rejected for the same reason as set forth in claim 9.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kumagai et al. (U.S. 6731959) in view of Inoue et al. (U.S. 6332024) and further in view of Kim (U.S. 6519475).

Regarding claim 8, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. However, the combination of Kumagai et al. and Inoue et al. do not disclose a device arranged for coupling to a headset, and when the device is in a headset coupled state, key is operable to controls the provision of information corresponding to the last number dialed.

In the same field of endeavor, Kim discloses a device arranged for coupling to a headset, and when the device is in a headset coupled state, the key is operable to controls the provision of information corresponding to the last number dialed (col. 3, lines 48-54).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the portable terminal of the combination of Kumagai et al. and Inoue et al. by specifically including a device arranged for coupling to a headset, and when the device is in a headset coupled state, the key is operable to controls the provision of information corresponding to the last number dialed, as taught by Kim, the motivation being in order to provide the operational mode of the mobile phone to change from the telephone mode to the idle mode in response to the second mode signal.

Response to Argument

Applicant, on page 7 of the remark, argues that the function of the key(s) is not dependent on the state of the device. However, the Examiner respectfully disagrees.

First, in response, during patent examination, the pending claims must be “given their broadest reasonable interpretation consistent with the specification.” In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550- 51 (CCPA 1969). The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). See MPEP 2111.

Second, Kumagai discloses in Figure. 5, column 3, line 61 to column 4, line 59 that when the cover 17 of the portable communication device is in the closed position (one of the state of the mobile), the user is able to use the telephone directory key 32a and/or 32b to retrieve party's phone numbers by scrolling up and/or down; and when the cover 17 of the portable communication device is in the opened position, the user uses key pad section 13 (see Figure. 4, column 3, lines 21 to 25). Therefore, the key 32a and/or 32b is arrange to be active when the cover 17 is in the closed position and inactive when the cover 17 is in the open position.

Applicant, on page 7 of the remark, argues that Inoue does not disclose a multifunction key that is "in a position remote from other of said keys". However, the Examiner respectfully disagrees. Inoue discloses in Figure 1, column 8, lines 32 to 39 that a main soft key 3 is a multifunctional key and the soft key 3 is in a position above group keys 5 or the soft key 3 is in a position remote from other keys (see Figure. 1, col. 5, line 27-40). On the other hand, Kamagai discloses in Figure. 5, that keys 32a and 32b are in position remote from other keys 30 and 31.

Applicant, on page 8 of the remark, argues that neither Kumagai nor Inoue teaches or suggests a multifunctional key located on the cover of a portable radio device and in a position remote from all other keys, regardless of the position of the cover. Thus, the combination of Kumagai and Inoue cannot teach or suggest Claim 1. However, the Examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).


Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dai A Phuong whose telephone number is 571-272-7896. The examiner can normally be reached on Monday to Friday, 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nguyen Duc can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dai Phuong
AU: 2617
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